



Northwest Colorado Fire Management Unit Fire Trespass Standard Operating Procedures

Introduction

It has been Bureau of Land Management (BLM) policy to determine the cause of all wildland fires. Fire trespass refers to the occurrence of unauthorized fire on BLM lands where the source of ignition is a result of human activity and there is evidence of negligence or intent. The BLM Fire Trespass Handbook, H-9238- I, guides the management of fire trespass cases. The BLM Handbook instructs each BLM State Office (SO) to develop a State Fire Trespass Operating Plan. Each local fire management organization (such as NWCFMU) is required to develop a trespass plan that tiers off of the state plan. The Colorado State Office has developed a BLM Colorado/Wyoming Trespass Annual Operating Plan. The intent of this SOP is to provide guidance for the handling of fire trespass cases tiering from the CO/WY AOP. The SOP is based on the BLM Fire Trespass Manual and Handbook and the CO/WY Fire Trespass AOP.

NWCFMU Fire Trespass Situation

The NWCFMU has a history of pursuing fire trespass cases when there is evidence to support prosecution. An emphasis from the National and State BLM offices is directed at pursuing cost recovery for expenditures derived from the actions taken to suppress and investigate human caused fires. Local fire staff has recently attended FI-210 (Wildfire Origin and Cause Determination) to assist with the need for investigating fires and producing reports in a timely manner.

The Unit Fire Mitigation and Education Specialist is assigned the duties of Fire Trespass Coordinator. In this role, the MEP will take the lead in coordinating the NWCFMU fire trespass program.

Fire Trespass Roles and Responsibilities

The following section details the responsibilities of the individuals involved in the fire trespass process. This is based on National and State BLM guidance.

NWCFMU Fire Trespass Coordinator (Trespass Coordinator) (see H-9238-1, p. 6, FSH 5309.11/5109.31)

- Coordinates with BLM State Fire Trespass Coordinator, BLM District Managers/Field Managers, Zone FMOs, Special Agent in Charge (SAC), and BLM law enforcement, to ensure an effective fire trespass program.
- Responsible for maintaining appropriate copies of case files including investigative reports and cost documentation.
- Tracks fire trespass information through case files and maintains the DI-1202 Trespass Sub-form.
- Obtains detailed financial reports of costs incurred. Uses Federal Business Management Systems (FBMS) to obtain a detailed summary of these costs.
- Records District/Field Office fire trespass case actions and tracks activities until completed. This includes tracking and reporting of all human-caused wildland fire trespass matters, including administrative, civil, and criminal cases.
- Prepares fire trespass documents and correspondence for DM/FOM.
- Maintains a Zone Fire Trespass Log to track all trespass cases.

Initial Attack Incident Commander. The Initial Attack Incident Commander has the overall responsibility for actions on the fire, which includes:

- Documents initial observations and protects the scene of fire origin.
- Assures origin and cause determination is initiated. If possible, determines if fire is a result of a lightning strike. If fire cause is unknown or human caused, assures that an INV F Fire Investigator is requested.
- Makes recommendation to FMO for law enforcement involvement. Providing written input to the fire origin and cause determination reports.

Zone Fire Management Officer (FMO) (see H-9238-1, p. 5, FSH5309.11/5109.31)

- The FMO has overall operational responsibility for wildland fire cause determination, investigation, and trespass.
- On recommendation of Initial Attack IC, orders an INV F Fire Investigator.
- Assures that the initial information regarding the report of a fire is documented to provide subsequent support for fire trespass.
- Assures completion of fire origin and cause determination reports
- Assures notification of Law Enforcement when they are not part of the initial investigation.
- Makes trespass recommendations to the BLM Field Office Manager. Uses the District/Field Manager's Fire Trespass Recommendation Document.
- Assures involvement and coordination among resource specialists, collection/accounting personnel, law enforcement and the DM/FOM to bring trespass process to completion.

INV F Fire Investigator (see H-9238-1, p. 7, FSH5309.11/5109.31 8,)

- Investigates all fires to determine the cause. If, when, and how law enforcement are assigned depends on the complexity of the fire and the suspected cause. The decision to assign a certain type of fire investigator in more complex fires will be made in coordination with the FOM, FMO, and SAC.
- A fire investigator may or may not also be a law enforcement officer. If the fire investigator is not a law enforcement officer, the fire investigator should coordinate with the BLM law enforcement personnel on human-caused fires to ensure proper law enforcement procedures are followed (i.e., securing evidence, witness interviews, etc.).

- Once a fire is determined to be human caused, the INVF Fire Investigator and the IC should not be the same individual so that investigative duties of the INVF Fire Investigator can be prioritized, and no additional suppression responsibilities will be assigned.
- Determines land status of the general point of origin, and, if origin is not on public lands administered by the BLM, notifies the appropriate agency for the dispatch of their fire investigator.
- Conducts investigation in accordance with NWCG and National Fire Protection Association standards outlined in the NFPA 921 and 1033.
- Identifies, protects, photographs and collects evidence of fire cause and at scene/site of suspected origin, especially any evidence at risk of destruction. Follows locally established protocols for storage of evidence.
- So long as there is authority for the fire investigator to be present at the suspected scene/site of origin, he or she determines and documents the probable cause of the fire, to the extent possible, protects the scene/site of origin, documents evidence, prepares an initial cause determination report, and assists law enforcement in any follow-up investigation.
- Reports to the IC and is briefed on fire status.
- Acts as liaison with BLM and other agency investigators.
- Assures cause determination reports and information addressing fire trespass and investigation activities are complete for the DI-1202.

BLM/FS Law Enforcement Officer (see H-9238-1, p. 8 – 9, FSH5309.11/5109.31)

- If certified as an INVF Fire Investigator, will have the same responsibilities listed above.
- If not certified as an INVF Fire Investigator, may still be dispatched to a human-caused fire to assist the INVF Fire Investigator during the on-scene investigation, and will assume lead in the off-scene follow-up investigation.
- Seizes and collects evidence from the scene or from the initial response INVF Fire Investigator and maintains custody of evidence for storage.
- Retrieves personal identity information from suspects/witnesses or from initial response INVF Fire Investigator; takes oath/affirmations on voluntary statements.
- Conducts initial or second on-scene witnesses/suspect interviews and/or conducts off-scene follow-up interviews.
- In coordination with INVF Fire Investigator, determines if probable cause exists for criminal action and coordinates with Special Agent in Charge as necessary to make arrests and/or issue citations.
- Initiates criminal proceedings, if applicable, in coordination with the Zone FMO, Field Office Manager, District Ranger, State Fire Trespass Coordinator, USAO.

Law Enforcement Arson Investigator. The Arson Investigator will usually be a Special Agent, by virtue of the time required in a long-term arson investigation; however a trained/experienced LE Ranger may serve in this role. The on-scene Arson Investigator may serve in several roles. If they are a certified INVF Fire Investigator, they may assume the role of origin and cause determination fire investigator of record and supervise the work of the initial response INVF and/or the local LEO. If they are not a certified INVF they will not be the INVF of record but can assume lead in the overall investigation and assist the INVF and/or local LEO in on-scene LE roles like evidence collection, witness interview

and suspect interrogation.

When assigned, the Arson Investigator will usually assume the lead investigative role for any off-scene follow-up investigative activities and coordinate the require duties of the local LEO and INVf.

- The Arson Investigator will be assigned the lead in the investigation of any fire that is suspected to be the result of arson. Also, any fire that is suspected to be the work of a serial arsonist already being investigated.

- The Arson Investigator could be required to initiate and/or participate in a multi-agency arson taskforce, investigating a serial arsonist(s) who is responsible for fires on different jurisdictional lands.
- LEOs that are assigned the responsibilities of being an arson investigator should be a certified INVf and additionally should complete the NWCG approved advanced training course FI-310 for **arson task force leaders**.
- Any certified INVf Arson Investigator will have the same responsibilities listed above under Section 8.
- Any LEO assigned the responsibilities of a Arson Investigator will have the training/experience required for the necessary skills and abilities to carry out all follow-up off-scene investigative activities, to include but not limited to: Surveillance operations (mobile & fixed); Technical equipment deployment; U.S. Attorney & Grand Jury presentations; Search & Arrest warrant executions and Taskforce operations.
- The Arson Investigator that is assigned lead investigator/case officer will coordinate the prosecution of the case with the U.S. Attorney/County District Attorney.
- The assignment of a Special Agent Investigator to non-arson human caused negligence fires or complex long term fire investigations where the training/skills of a Special Agent are required can be determined by consultation between the local Field Manager, the local FMO, the local LEO and the SAC.

District Manager (DM)/Field Office Manager (FOM) (see H-9238-1, p. 4-5)

- The DM/FOM has the overall program responsibility for wildland fire investigation, trespass, and collections on Bureau lands.
- Will send a copy of all case files to the State Fire Trespass Coordinator for review and to be forwarded to the Office of the Solicitor through the State Director.
- Must provide a recommendation whether to proceed with a trespass action and any findings of the investigation with the case file sent for review.
- Absent objection from the field solicitor within 60 days of notice, or if the Solicitor's Office concurs in the recommendation, the DM/FOM shall issue a Notice of Suspected Trespass based on the evidence of negligence and meet with the suspected trespasser.
- Initiates a formal trespass action by issuing a trespass decision and bill for collection to the suspected trespasser. The DM/FOM must copy the Office of the Solicitor, the State Director and State Fire Trespass Coordinator on any decision.
- Formulates monetary recommendations to the State Director in the event that the BLM or the alleged trespasser wishes to compromise or settle a claim.

Special Agent-in-Charge. The Special Agent-in-Charge (SAC), or their designated representative, has the overall agency responsibility in the criminal investigation and prosecution of all criminal intent fires (Arson). The SAC will also be the agency's representative in a civil ACE proceeding with the U.S. Attorney's Office. The SAC will also work with the State Fire Management Officer, the State Fire Trespass Coordinator, the Field Managers and the local Field Law Enforcement Officers to ensure an effective Fire Trespass Operating Plan.

- All fires that have been determined to be the result of arson, i.e. an intentional set for the purpose of burning public lands, must be reported to the SAC.
- The SAC will determine if a Law Enforcement Arson Investigator, usually a Special Agent, will be assigned to the investigation.

Finance Personnel

- Assists Fire Trespass Coordinator in retrieving detailed cost information.
- Prepares Bill for Collection, adhering to current guidance.
- Deposits fire trespass collections in accordance with guidelines. Reports receipt(s) of collections to Zone FMO, Zone Fire Trespass Coordinator and State Fire Trespass Coordinator.

Regional Solicitor's Office

- May be consulted when determining negligence.
- May concur in the DM/FOM's recommendation whether to proceed with a trespass action, and must notify the district or field office within 60 days if they object to the recommendation.
- May assist the agency in determining whether a debt is owed, by whom, and amount owed.

- Determines whether to refer a matter to the USAO for civil affirmative litigation (cost recovery) on behalf of the BLM and/or other federal agencies within the Department of the Interior.
- Represents BLM in an administrative appeal before the Office of Hearings and Appeals (OHA).
- May assist BLM in responding to requests for information or records, whether through FOIA or another avenue.

Cause Determination and Fire Investigation

All fires must be investigated to determine cause, natural or human, and whether negligence and/or criminal intent were factors in human-caused fires.

Cause determination must begin as soon as possible after the fire ignites, since evidence is easily destroyed. First responders and the IC are responsible for protection of the scene/site/point of origin and must assure that origin and cause determination is initiated in a timely manner.

An INVF Fire Investigator will most likely be assigned to all fires that are determined to be human-caused or if the cause is unknown. Based on the cause determination, the complexity of the fire, and the expenditure of suppression funds, other investigators or law enforcement personnel may become involved.

A copy of all case recommendations will be sent from the District/Field Office to the State Fire Trespass Coordinator for review and to be forwarded to the Office of the Solicitor, through the State Director.

Fire information needs to be collected and recorded in a timely manner to effectively manage the fire program and to meet external mandates. This includes the fire trespass program. The Bureau's official reporting system will prompt the user to complete the necessary fire trespass elements.

A Fire Trespass case file will be maintained on all trespass fires. A trespass case number will be assigned to fire trespass cases by Trespass Coordinator except for Zone FMOs who maintain their own fire trespass register and assign case numbers. In those cases the Zone FMO will send file information including the trespass case number to the Trespass Coordinator for his/her records.

Note: The BLM Fire Trespass Manual and Handbook, FSH 5309.11 Chapter 20, FSH 5109.31-Wildfire Origin and Cause Determination Handbook-NWCG Handbook 1 and the Colorado/Wyoming Fire Trespass Plan will be consulted for specific details on handling fire trespass cases.